



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#12
7/24/03
J. W. H.

Applicants : JUERGEN HEUSER et. al.
Serial No. : 09/807,851
Filed : April 19, 2001
For : PHOSGENE WITH POOR TETRA CHLORIDE CARBON
CONTENT
Group Art Unit : 1621
Examiner : S.A. Witherspoon

DECLARATION

Dr. Hermann Kauth hereby declares:

- that he is a chemist having studied at the University of Mainz, Germany;
- that he received his doctor's degree in chemistry (Dr. rer. nat.) at the University of Mainz in 1982 ;
- that he entered the employ of Bayer in 1982;
- that he has specialized inter alia in phosgene synthesis
- that he is one of the inventors of the patent application at issue and
- that he has read and understood the disclosure of the patent application at issue as well as the cited prior art.

The differences in between example 2 and the comparative Example included in the patent application, in terms say the chlorine flow rate and the methane

content have no positive effect on the content of tetrachloride of the resulting product. The difference in chlorine feed is within the error of instrument, and a lower methane content leads to a lower tetrachloride content. Therefore these differences would lead to a lower tetrachloride content in the comparative example.

The only differences which are material to the decrease of the content of tetrachloride of the resulting product in the examples according to the invention are the differences in pressure and temperature.

This critical dependency of the content of tetrachloride of the resulting product from pressure and temperature employed in the process is unexpected and surprising and could never been foreseen based on the disclosure of WO97/30932 of Chicha.

The undersigned declarant hereby declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date

Dr. Hermann Kauth